

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 10 31 11
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JEFFREY A. SILVESTRO,
Petitioner,

v.

MICHAEL ASTRUE, Commissioner of Social
Security,
Respondent.

MEMORANDUM DECISION

07 CV 9554 (VB)

Briccetti, J.:

Before the Court is the Report and Recommendation ("R&R") dated August 23, 2011, of Magistrate Judge Lisa M. Smith in this action. (Doc. #25.)

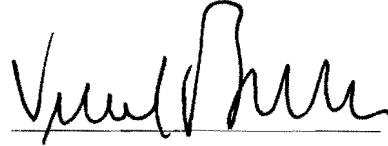
A district court reviewing a magistrate judge's R&R "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Parties may raise objections to the recommended ruling "[w]ithin fourteen days after being served with a copy [of the recommended disposition]." *Id.* The district court may adopt those portions of the R&R to which no timely objections have been made, provided no clear error is apparent from the face of the record. *See Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008).

Neither plaintiff nor defendant has filed objections to the R&R. I discern from the face of the record no clear error in the R&R, and adopt it as the decision of the Court. Defendant's motion to dismiss (Docs. # 16, 17) is DENIED, plaintiff's cross-motion for judgment on the pleadings (Docs. # 18, 19) is GRANTED, and the case is remanded for further administrative proceedings to develop a comprehensive record from which the Administrative Law Judge may make appropriate findings.

The Clerk of the Court is instructed to close this case.

Dated: October 31, 2011
White Plains, NY

SO ORDERED

A handwritten signature in black ink, appearing to read 'Vincent L. Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge